

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-149

March 23, 1999

CENTRAL MAINE POWER COMPANY
Re: Request for Approval to Amend
Standard Form Assignment Agreement
with The Union Water-Power Company
for the Implementation of Energy
Management Projects at Federal Facilities

ORDER

WELCH, Chairman; NUGENT, and DIAMOND Commissioners

I. Summary

We approve a Revised Assignment Agreement between Central Maine Power Company (CMP) and its affiliated interest the Union Water Power Company (UWP), pursuant to 35-A M.R.S.A. § 707(3).

II. Background and Request

By Order dated September 3, 1998 in Docket No. 98-381, the Commission authorized CMP to enter into an affiliated interest transaction with UWP. This allowed CMP to assign to UWP the right to implement specific energy management projects at federal facilities under the Areawide Public Utilities Contract ("Areawide Contract") between CMP and the United States General Services Administration. The Commission's Order approved a stipulation between CMP and the Public Advocate, the only other party to the case. In approving the stipulation, the Commission approved CMP's use of a standard assignment agreement.

UWP has recently requested that CMP execute and assign to UWP an authorization for a heating system project at Brunswick Naval Air Station. To provide financing to the Naval Air Station for this project, the stream of payments from the federal government must be assigned to the financing party, which is expected to be General Electric Capital Corporation, d/b/a Potomac Federal. Under the approved assignment agreement, CMP would assign to UWP its right to receive payments from the federal government arising from the energy management project; UWP would then

be free to reassign this stream of payments to third party financing companies such as Potomac Federal. However, Potomac Federal has made clear that in order for it to provide financing for this project, CMP must agree to directly assign payments to Potomac Federal.

CMP now requests that the Commission approve a Revised Assignment Agreement between itself and UWP. Counsel for CMP has reported to the Commission that the Public Advocate does not object to proposed revisions. The Revised Assignment Agreement varies from the approved version in only two respects. First, the Revised Assignment Agreement allows for the direct assignment of contract payments from the federal government to Potomac Federal. Second, it includes broader indemnity provisions that are designed to more fully protect CMP and its customers from any adverse financial consequences of any kind related to the performance of energy management services by UWP.

III. Decision

The Revised Assignment Agreement requires Commission approval pursuant to 35-A M.R.S.A. § 707(3). Under this provision public utilities must obtain Commission approval of any contract or arrangement between the utility and an affiliated interest. Because UWP and CMP are both subsidiaries of CMP Group, Inc., CMP and UWP are affiliated interests. Consequently, any contract or arrangement between CMP and UWP regarding the implementation of energy management projects under the Areawide Contract requires Commission approval. The standard for approval of an affiliated interest transaction under 35-A M.R.S.A. § 707(3) is whether a particular contract or arrangement “would be adverse to the public interest.” In Docket No. 98-381, the Commission found that the existing assignment agreement would not be adverse to the public interest. The Revised Assignment Agreement does not increase the risk to CMP or its customers, nor does it create any other effect which would be adverse to the public interest.

Because these proposed revisions to the assignment agreement do not substantively affect the nature of, nor the risk inherent in, the transaction structure approved in Docket No. 98-381, we approve the revisions to the assignment agreement requested by CMP. We also will allow CMP to use the Revised Assignment Agreement for other projects under its Areawide Contract. The other terms of the stipulation and our September 3, 1998 Order in Docket No. 98-381 remain in effect.

Dated at Augusta, Maine this 23rd day of March, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.